

COMMONWEALTH OF MASSACHUSETTS
State Building Code (780 CMR) Appeals Board
Board's Ruling on Appeal¹

Docket No. 08-659

Appellant(s): Louise Cartwright

vz. Appellee(s): City/Town of Danvers
Richard Maloney

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, the Appellant requested that the Board grant her a variance from 780 CMR 402.15.4, for the 100 Independence Way, Danvers, MA a.k.a. Center Court, Liberty Tree Mall. In accordance with GL c. 30A, §§10 & 11; GL c. 143, §100; 801 CMR 1.02 *et. seq.*; and 780 CMR 122.3.4, the Board convened a public hearing on November 6, 2008 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

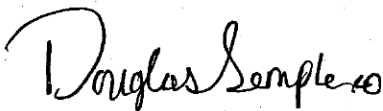
The Appellant appeared for the hearing *pro se*. Richard Maloney from the Danvers Building Department and others were present as well as shown in the sign in sheet on file at the Department of Public Safety.

Discussion

A motion was made to grant the Appellant's request for a variance from 780 CMR 402.15.4, after hearing testimony on an amusement device for which the appellant was denied a permit because it was deemed to be a "kiosk or similar structure" and it exceeded the maximum area of 300 sq. ft. The motion was based on the fact that if the current ruling applied it would present a hardship to the appellant. Also the motion noted that the structure does not meet the definition of a "kiosk", the structure has been set up in the same mall in the past, and the Danvers Building Official does not have an objection to the granting of the variance. There was a second on the motion and a board vote was taken, which was unanimous.

Conclusion

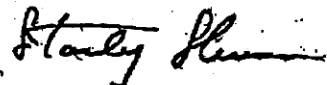
The Appellant's request for a variance from 780 CMR 402.15.4, is hereby granted and so ordered² on this date: November 6, 2008.



Douglas Semple



Jacob Nunnemacher



Stanley Shuman